



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: February 15, 2006 REPORT NO. 06-018

ATTENTION: Council President and City Council
Docket of February 21, 2006

SUBJECT: Appeal of Rancho Bernardo Inn. Project Number 44512. Council District 5,
Process 4

REFERENCE: Planning Commission Report Number PC-05-282 – October 6, 2005

OWNER/
APPLICANT: RBI Investors, LP, a Delaware limited partnership
Paul L. Reed, Owner's Representative
Randi Coopersmith, Latitude 33 Planning and Engineering

APPELLANTS: David Griffith Eisenstein, Nicholas J. Jameson, Kenneth B. Huepper,
Allen F. Gates

SUMMARY

Issue - Should the City Council approve or deny an appeal of the Planning Commission's decision to approve the demolition of nine tennis courts and the construction of a meeting/ballroom facility, storage areas, kitchen facility, swimming pool, and outdoor accessory areas within the existing 137.48 acre property?

Staff's Recommendations:

1. DENY the appeal;
2. CERTIFY Mitigated Negative Declaration (MND) No. 44512, and ADOPT Mitigation, Monitoring, and Reporting Program (MMRP); and
3. APPROVE Planned Development Permit No. 263778;
4. APPROVE Conditional Use Permit No. 132890.

Planning Commission Recommendation – On November 10, 2005 the Planning Commission voted 6-1 to approve the Planned Development Permit and Conditional Use Permit.

Community Planning Group Recommendation - On August 18, 2005, the Rancho Bernardo Community Planning Board voted 21-0-0 to recommend approval of the project with 14 conditions. On September 15, 2005, the Rancho Bernardo Community Planning Board reconsidered the project and voted 16-0-0 to recommend approval of the project with 15 modified conditions, from the previous August 18, 2005 vote. Please see the Discussion section of the attached Planning Commission Report, Attachment 2, for staff analysis and more detailed responses to Planning Committee conditions.

Environmental Review - A Mitigated Negative Declaration No. 44512 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level below significance, the potential environmental impacts identified for the following resource area: paleontological resources.

Fiscal Impact - All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact - None with this action.

Housing Impact Statement – The project proposes to demolish nine (9) existing tennis courts and construct a 9,950 square foot meeting/ballroom, 1,150 square-feet of storage areas, a 2,560 square-foot kitchen, swimming pool, lawn areas, patio areas and accessory areas totaling 26,000 square feet of new development. The proposed project would have a neutral impact on housing within the Rancho Bernardo Community.

Water Quality Impact Statement - The project is classified as a priority project as defined by the City Storm Water Standards. The project is required to comply with the State Water Resources Control Board Order No.92 08 DWQ (NPDES General Permit No. CAS0000002).

During construction, this project will comply with Best Management Practices (BMP's) through preparation of a Storm Water Pollution Prevention Plan (SWPPP) in conjunction with the grading plans. The SWPPP will identify all BMPs to be implemented during the construction phase to reduce/eliminate the discharge of pollutants.

The post development Best Management Practices (BMPs) incorporated into the project consists of site design, source control and treatment. The project's post development runoff will be collected and conveyed by a private drainage system. Treatment will consist of on and off site bio-filtration. The property owner(s) will be responsible for the long term maintenance of all private drainage facilities.

BACKGROUND

The proposed project is located at 17550 Bernardo Oaks Drive in the RS-1-14 Zone within the

Rancho Bernardo Community Plan Area and is designated for resort use. The site currently contains the following facilities: eighteen-hole golf course, club house, pro shop, lounge facilities, 283 guest units, 584 parking spaces, 12 tennis courts, two swimming pools, banquet and dining facilities, commercial and retail shops, restaurant, conference and meeting space, administrative offices, and maintenance/support facilities. The irregular shaped site is approximately 137.48 acres and is bound by single family residences to the north and south. The golf course is to the east and west of the project site. The site is relatively level in topography in the area proposed for redevelopment. The project is currently accessed by Bernardo Oaks Drive as the main ingress/egress to the facility.

The Rancho Bernardo Inn development was originally approved for the construction and operation of the golf course, club house, lodge and related facilities by the Planning Commission on August 1, 1962, under Conditional Use Permit No. 5003. There have been six subsequent amendments to CUP No. 5003, the last being approved by the Planning Commission on January 29, 1987, CUP No. 86-0936. These amendments allowed for additional uses on the site that were not covered in previous permits including: 283 guest units, 584 parking spaces, 12 tennis courts, swimming pools, banquet and dining facilities, commercial and retail shops, restaurant, conference and meeting space, administrative offices, and maintenance/support facilities.

DISCUSSION

Project Description

The project proposes to process a Planned Development Permit and Conditional Use Permit to amend CUP No. 5003 to demolish nine (9) of the existing tennis courts and construct a 9,950 square foot meeting/ballroom, 1,150 square-feet of storage areas, a 2,560 square-foot kitchen, swimming pool, lawn areas, patio areas and accessory areas totaling 26,000 square feet of new development. The project would not result in any additional guest rooms over the current guest room total of 283 rooms.

The maximum building height on the site would be 29 feet 8 inches, and that height would be limited to the proposed meeting/ballroom building. The exterior of the building would consist of colored stucco to match existing buildings on the project site, windows, terra cotta colored clay tile roof, metal wrought iron, and concrete columns to match colored stucco.

As designed, the project site would generally maintain existing drainage patterns. Flows from the site would drain over, and be filtered by, the existing golf course. All onsite drainage would be collected via 6" drains placed throughout the proposed development area and then directed into the City's storm drain system. The proposed project has been reviewed by City Landscape staff and would comply with all applicable landscape regulations.

There are currently 584 parking spaces onsite. During review of the project, it was determined that this was sufficient for the current project site with the proposed redevelopment taken into consideration. The project proposes to close exiting from the main parking lot to Bernardo Oaks Drive as part of the project and make Greens East Road the main access. The main parking lot will not exit to Bernardo Oaks Drive and will be open to Emergency Vehicles only.

The Rancho Bernardo Inn is located in an area designated as resort/golf course use within the Rancho Bernardo Community Plan. The community plan also states “commercial recreational uses and meeting areas are encouraged to locate in private facilities such as the Rancho Bernardo Inn” (Page 66). The proposed meeting/ballroom building conforms to this use and is located within the area designated as resort/golf course. The proposed project is consistent with this designation. The project site is zoned RS-1-14. The zone allows a golf course use with a CUP. Additionally, the RS-1-14 zone has a maximum structure height of 35 feet. The project is proposing a maximum structure height of 29’-8”, which conforms with the underlying zone.

APPEAL ISSUES

The appellants, David Griffith Eisenstein, Nicholas J. Jameson, Kenneth B. Huepper, and Allen F. Gates, filed appeals on November 17, 2005; November 18, 2005; and November 28, 2005, respectively (Attachment 1). The individual appellant issues and city staff’s response are as follows:

A. Appellant David Griffith Eisenstein

1. Zone RS-1-14 allows for a Conditional Use Permit, but not for a commercial structure.

Staff’s Response: The project site is located within the RS-1-14 zone and currently has a Conditional Use Permit (CUP) for the current operations. Conditional Use Permit No. 5003 was approved by the Planning Commission on August 1, 1962. There have been six subsequent amendments to CUP No. 5003 the last being approved by the Planning Commission on January 29, 1987, CUP No. 86-0936. The Rancho Bernardo Community Plan states “commercial recreational uses and meeting areas are encouraged to locate in private facilities such as the Rancho Bernardo Inn” (Page 66). The proposed meeting/ballroom building conforms to this use and is located within the area designated as resort/golf course. The proposed project is consistent with this designation.

2. The language within the Community Plan does not allow this use.

Staff’s Response: Pursuant to the San Diego Municipal Code regulations for a Planned Development Permit, Section 143.0403(a)(1), allowed uses are any permitted use in the base zone or the applicable land use plan. The RS-1-14 zone allows a Conditional Use Permit for the golf course use. The Rancho Bernardo Community Plan states “commercial recreational uses and meeting areas are encouraged to locate in private facilities such as the Rancho Bernardo Inn” (Page 66). Since the community plan specifically states that meeting areas should locate within private facilities such as the Rancho Bernardo Inn, the proposed project conforms to the language within the Rancho Bernardo Community Plan and the Planned Development Permit allows for this use.

3. CC&R’s do not allow this project to move forward.

Staff's Response: The City of San Diego does not enforce Covenants, Conditions and Restrictions (CC&Rs) for private properties.

4. Traffic congestion.

Staff's Response: A focused traffic analysis was prepared for the proposed project to review potential impacts the proposed project would have on the existing street system. The focused traffic analysis prepared by Urban Systems Associates, Inc., dated June 15, 2005, was reviewed and approved by City Transportation Staff. The focused traffic analysis examined three access routes to and from the project area. The following routes were examined: Mirasol Drive – North Access; Greens East Road – East Access; and Bernardo Oaks Drive – South Access.

The north access route has a series of road humps that were installed by the City of San Diego to reduce speeds and discourage through traffic. Mirasol Drive connects to Sintonte Drive just north of the Rancho Bernardo Inn. Sintonte Drive in turn connects at a cul-de-sac through a private drive into and through the Rancho Bernardo Inn. The east access route is via a combination of Greens East Road and a private drive adjacent to the Rancho Bernardo Country Club. This access route also connects through the Rancho Bernardo Inn to complete a private street-public street network. The south access route is via Bernardo Oaks Drive which connects through the Rancho Bernardo Inn via private drives to both of the other access routes that were examined for the proposed project. Several stops are located along both the north and south access routes to allow local residential access, discourage speed and discourage through traffic. All three access routes examined traverse residential areas with homes and driveways directly accessing these routes. Greens East Road has the fewest driveways and provides the shortest and most direct access to nearby arterial streets such as Pomerado Road.

This focused traffic analysis concluded that the east access route via Greens East Road was the best road to move the ingress/egress for the Rancho Bernardo Inn. The southerly parking lot exit to Bernardo Oaks Drive cul-de-sac will be closed except for emergency vehicles. The analysis recommended improving signage, lighting, pedestrian crossing, and the street for the east access. Entry signage, revised raised medians, and standard curb and gutter should be installed at the cul-de-sac entrance to the private portion of Greens East Road resulting in a safer access for both the Rancho Bernardo Country Club and the Rancho Bernardo Inn.

5. Private view of golf course.

Staff's Response: The City of San Diego does not protect private views. The Rancho Bernardo Community Plan does not designate any public view shed areas within the proposed project site.

6. Noise associated with construction and use of meeting room.

Staff's Response: The potential construction noise is required to be in conformance with San Diego Municipal Code Section 59.5.0404, which states the following "it shall be unlawful for any person, including the City of San Diego, to conduct any construction activity so as to cause, at or beyond the property lines of any property zoned residential, an average sound level greater than 75 decibels during the 12-hour period from 7:00 am to 7:00 pm".

Additionally, a noise study was performed to assess potential noise impacts to adjacent neighbors when the proposed building was operational. The Final Acoustical Compliance Assessment, prepared by Investigative Science and Engineering, Inc., dated May 6, 2005, was reviewed by City Staff. The noise study analyzed the worst case scenario which assumed all doors at the proposed meeting/ballroom facility were open with continuous uninterrupted 95-dBA noise source. The worst case scenario was analyzed in order to determine compliance at the property line interface shared with nearby residences. The analysis determined that the worst case scenario for the meeting/ballroom facility operations would comply with the City of San Diego noise ordinance between the hours of 7:00 am and 10:00 pm.

However, the proposed meeting/ballroom facility has been designed to have doors open from the meeting area into an inside hallway. The doors to the outside are across the hallway. The proposed hallway surrounds the entire ballroom so that there are no doors directly to the outside from the meeting area. The doors located on the exterior of the building to the hallway will remain closed at all times. Therefore, there will not be a noise impact to adjacent residences.

B. Appellant Nicholas J. Jameson

1. Findings not supported.

Staff's Response: Pursuant to San Diego Municipal Code Sections 126.0305 and 126.0604, the findings for the Conditional Use Permit and Planned Development Permit have been provided to the decision maker. The appellant does not provide specifics on which findings cannot be supported.

2. Project site is residentially zoned.

Staff's Response: Similar issue previously discussed. See A.1 staff response.

3. Project site is designated as a recreational use area – CUP No. 5003, Amendment 3.

Staff's Response: Conditional Use Permit No. 5003, Amendment No 3, Planning Commission Resolution No. 530, was approved by the Planning Commission on July 15, 1976. This third amendment proposed the construction of 12 tennis courts and a tennis club building. At the time of this amendment, there were four (4) existing tennis courts and the amendment was proposing the addition of 12 tennis courts, for a total of 16 tennis courts. The tennis court use is restricted to guests of the Rancho Bernardo Inn. The golf course is open to the public. The third amendment did not designated the project site as recreational, but stated that the proposed 12 tennis courts and tennis club building were an expansion to the existing recreational and visitor oriented facilities on site. The project site is zoned RS-1-14 and is designated resort/golf course within the adopted Rancho Bernardo Community Plan.

4. PDP isn't allowed since commercial facilities are neither allowed in the base zone or permitted by the applicable land use plan.

Staff's Response: Pursuant to the San Diego Municipal Code regulations for a Planned Development Permit, Section 143.0403(a)(1), allowed uses are any permitted use in the base zone or the applicable land use plan. The RS-1-14 zone allows a Conditional Use Permit for the golf course use. The Rancho Bernardo Community Plan states "commercial recreational uses and meeting areas are encouraged to locate in private facilities such as the Rancho Bernardo Inn" (Page 66). Since the community plan specifically states that meeting areas should locate within private facilities such as the Rancho Bernardo Inn, the proposed project conforms to the language within the Rancho Bernardo Community Plan and the Planned Development Permit allows for this use.

C. Appellant Kenneth B. Huepper

1. Inadequate conditions related to traffic circulation.

Staff's Response: A focused traffic analysis was prepared for the proposed project to review potential impacts the proposed project would have on the existing street system. The focused traffic analysis prepared by Urban Systems Associates, Inc., dated June 15, 2005, was reviewed and approved by City Transportation Staff. The focused traffic analysis examined three access routes to and from the project area. The following routes were examined: Mirasol Drive – North Access; Greens East Road – East Access; and Bernardo Oaks Drive – South Access. This study determined that all the access routes analyzed currently operate at a Level of Service (LOS) A.

This focused traffic analysis concluded that the east access route via Greens East Road was the best road to move the ingress/egress for the Rancho Bernardo Inn. The southerly parking lot exit to Bernardo Oaks Drive cul-de-sac will be closed except for emergency vehicles. The analysis recommended improving signage, lighting, pedestrian crossing, and the street for the east access. Entry signage, revised raised medians, and standard curb and gutter should be installed at the cul-de-sac entrance to the private portion of Greens East Road resulting in a safer access for both the Rancho Bernardo Country Club and the Rancho Bernardo Inn.

2. Failure to implement traffic mitigation and safety concerns along Greens East Road.

Staff's Response: The focused traffic analysis concluded that the east access route via Greens East Road was the best road to move the ingress/egress for the Rancho Bernardo Inn. The southerly parking lot exit to Bernardo Oaks Drive cul-de-sac will be closed except for emergency vehicles. The analysis recommended improving signage, lighting, pedestrian crossing, and the street for the east access. Entry signage, revised raised medians, and standard curb and gutter should be installed at the cul-de-sac entrance to the private portion of Greens East Road resulting in a safer access for both the Rancho Bernardo Country Club and the Rancho Bernardo Inn.

3. Improper imposition of Greens East Road as the main ingress/egress to the project.

Staff's Response: Similar issue previously discussed. See A.4, C.1 and C.2 staff responses.

4. Explanation of noticing difference between the Rancho Bernardo Inn and the cell phone tower located on the Rancho Bernardo Country Club property.

Staff's Response: Pursuant to the San Diego Municipal Code Section 112.0302(b), the applicant provides the addresses and owners within a 300 foot radius of the boundary of the real property that is the subject of the application would receive public notices associated with projects submitted for review to the City of San Diego. The Rancho Bernardo Inn project has properly noticed all addresses and property owners within a 300 foot radius of the boundary of the property that is known as the Rancho Bernardo Inn. This includes all of the golf course lands associated with the Inn.

The cell phone tower project located on the Rancho Bernardo Country Club property was reviewed to see how the adjacent property owners/tenants were noticed of the project. The cell phone tower project is located east of the Rancho Bernardo Inn on the Rancho Bernardo Country Club lands. The cell phone tower project noticed property owners/tenants at a further distance from the project than the required 300-foot radius as required by the Municipal Code.

5. Inadequate traffic study

Staff's Response: A focused traffic analysis was prepared for the proposed project to review potential impacts the proposed project would have on the existing street system. The focused traffic analysis prepared by Urban Systems Associates, Inc., dated June 15, 2005, was reviewed and approved by City Transportation Staff. This study determined that all the access routes analyzed currently operate at an LOS A.

D. Appellant Allen F. Gates

1. Tennis Courts are in the RS-1-14 Zone and the Municipal Code does not allow commercial uses within residential zoning.

Staff's Response: Similar issue previously discussed. See A.1 staff response.

2. The Rancho Bernardo Community Plan identifies the RB Inn golf course as a recreational land use, which would not permit a PDP.

Staff's Response: Similar issue previously discussed. See A.1, A.2 and B.4 staff responses.

3. CUP No. 5003, Amendment #3 states that the tennis courts replaced part of the golf course and thus is a permitted recreational use of residentially zoned land.

Staff's Response: Similar issue previously discussed. See B.3 staff response.

4. The Deputy City Attorney made a mistake by permitting this project to go to Planning Commission.

Staff's Response: The Deputy City Attorney reviewed the proposed project and determined that there was not a conflict with the proposed application for a Planned Development Permit and Conditional Use Permit by the applicant. The Planned Development Permit is being processed pursuant to SDMC Section 126.0601 and the Conditional Use Permit is being processed pursuant to SDMC Section 126.0301. Pursuant to SDMC Section 112.0103, these two permit applications are consolidated for processing and to be reviewed by a single decision maker. The decision maker for the PDP and CUP was determined to be Planning Commission. The approval of the Planning Commission has been appealed to the City Council as the final decision maker.

5. Approval of this project could allow the entire RB Inn golf course to be used for commercial purposes, and possibly set a precedent for all other RB golf courses.

Staff's Response: Conditional Use Permit No. 5003, Amendment No 3, Planning Commission Resolution No. 530, was approved by the Planning Commission on July 15, 1976. This third amendment proposed the construction of 12 tennis courts and a tennis club building. At the time of this amendment, there were four (4) existing tennis courts and the amendment was proposing the addition of 12 tennis courts, for a total of 16 tennis courts. The tennis court use is restricted to guests of the Rancho Bernardo Inn. The golf course is open to the public. The proposed meeting/ballroom facility is located within nine (9) existing tennis courts; the proposed facility would not encroach into the existing golf course lands.

Conclusion

Staff recommends denial of the appeals and approval of the proposal as requested. The project is consistent with the Rancho Bernardo Community Plan as well as the underlying zone. The Rancho Bernardo Community Planning Board unanimously voted to approve the project as proposed.

The proposed project does not propose an increase in guest rooms beyond the current number of guest rooms, totaling 283 rooms. The project currently has 584 onsite parking spaces which are adequate for the existing uses on site. The current 584 onsite parking spaces will meet the required parking for the proposed meeting/ballroom building.

ALTERNATIVES

1. DENY the appeal and APPROVE Planned Development Permit No. 263778 and Conditional Use Permit No. 132890, with modifications.
2. APPROVE the appeal and DENY Planned Development Permit No. 263778 and Conditional Use Permit No. 132890.

Respectfully submitted,

Gary W. Halbert
Development Services Director

Approved: Jim Waring
Deputy Chief Operating Officer

HALBERT/LCB

Note: Attachments 3 and 4 are available in electronic format. A complete copy for review is available in the Office of the City Clerk.

Attachments:

1. Copy of Appeal Applications
2. Planning Commission Report No. PC-05-282
3. [Draft Permit](#)
4. [Draft Resolution](#)